

FILED
U.S. DISTRICT COURT
EASTERN DISTRICT OF TEXAS

DAVID J. MALAND, CLERK

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Case No. 4:10cv201

AMERIQUEST MORTGAGE COMPANY
AND CHASE HOME FINANCE, LLC.,

**MEMORANDUM ADOPTING REPORT AND
DATION OF THE UNITED STATES MAGISTRATE JUDGE,
ORDER DENYING MOTION FOR RECONSIDERATION**

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On June 1, 2010, the Magistrate Judge also entered an order requiring copies of all checks reflecting any payments made on the property located at 9607 Spring Drive (*see* Dkt. 12). Plaintiffs were given 14 days to comply with the order. On June 29, 2010, the Magistrate Judge entered an order indicating that Plaintiffs have failed to produce any checks or bank records in support of their position herein (*see* Dkt. 25).

On June 15, 2010, Plaintiffs filed a Motion to Reconsider Injunctive Relief Request (Dkt. 19). In the motion, Plaintiffs indicate that their home has been set for foreclosure sale on July 6, 2010. No Defendants have been served or appeared in this suit, and, since June 10, 2010, all certified mail sent to Plaintiffs by the Clerk's office has been returned as unclaimed.

The court is of the opinion that any objections to the reports of the Magistrate Judge raised by Plaintiffs in their Motion to Reconsider Injunctive Relief Request are without merit and that the findings and conclusions of the Magistrate Judge in those reports are correct. Therefore, the court hereby adopts the findings and conclusions of the Magistrate Judge as the findings and conclusions of this court, Plaintiffs' Ex Parte Application for Temporary Restraining Order (Dkt. 7) is DENIED, and Plaintiffs' Application for Temporary Restraining Order (Dkt. 10) and requests for preliminary injunction (Dkts. 8 & 10) are DENIED as MOOT.

Further, having considered the new grounds raised in Plaintiffs' Motion to Reconsider Injunctive Relief Request (Dkt. 19), the court finds that Plaintiffs' renewed request for injunctive relief should also be DENIED. A plaintiff seeking injunctive relief must show:

- (1) a substantial likelihood of success on the merits,
- (2) a substantial threat that plaintiffs will suffer irreparable harm if the injunction is not

granted,

(3) that the threatened injury outweighs any damage that the injunction might cause the defendant, and

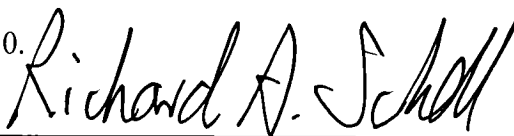
(4) that the injunction will not disserve the public interest.

Palmer v. Waxahachie Indep. Sch. Dist., 579 F.3d 502, 506 (5th Cir. 2009); *Nichols v. Alcatel USA, Inc.*, 532 F.3d 364, 372 (5th Cir. 2008). The party requesting injunctive relief bears the burden to prove all four requirements. *Palmer*, 579 F.3d at 506.

As indicated by the Magistrate Judge's June 29, 2010 order (*see* Dkt. 25), Plaintiffs have failed to produce any checks or other bank records which would support their position that they have fully paid off their mortgage as alleged. They have, therefore, not shown a likelihood of success on the merits of their case, and injunctive relief is not appropriate at this time. The motion for reconsideration is DENIED.

IT IS SO ORDERED.

SIGNED this 1st day of July, 2010.



RICHARD A. SCHELL
UNITED STATES DISTRICT JUDGE